

INTERNATIONAL JOINT COMMISSION

IN THE MATTER OF THE APPLICATION

OF THE

INTERNATIONAL LUMBER COMPANY

FOR APPROVAL OF THE PLAN OF A BOOM IN THE
RAINY RIVER AT INTERNATIONAL FALLS, MINNE-
SOTA, UNITED STATES OF AMERICA, OPPOSITE
THE TOWN OF FORT FRANCES, IN THE PROVINCE
OF ONTARIO, DOMINION OF CANADA.

*Statement in Response on Behalf of the Dominion
of Canada.*

NOVEMBER 15, 1916.

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CANADA.

To the Honourable

*The International Joint Commission,
Ottawa, Canada, and Washington, D.C.*

The undersigned as Deputy Minister of Public Works of Canada respectfully submits the following Minute of Council as Statement in Response to this application.

J. B. HUNTER,
Deputy Minister of Public Works of Canada.

P.C. 2520.

CERTIFIED COPY of a Report of the Committee of the Privy Council, approved by His Excellency the Governor General on the 15th November, 1916.

The Committee of the Privy Council have had before them a report, dated 6th November, 1916, from the Minister of Public Works, stating as follows:—

That the Government of the United States has referred to the International Joint Commission the application of the International Lumber Company for approval of the plan of a boom in the Rainy River at International Falls, Minnesota, opposite the Town of Fort Frances, Ontario:

That it is related in the Company's application: "That it is a corporation, organized under the laws of the State of Minnesota, for the purpose, among other things, of manufacturing lumber, and that it is engaged in the operation of a large sawmill at International Falls, Minnesota; that its mill is located on the bank of Rainy River, in the easterly part of Section thirty-

four (34), Town seventy-one (71), north, range twenty-four (24); that the only feasible and practicable method of supplying the mill with logs is by placing them in booms in the river at and above the mill, to wit: along the front of Lot one (1), in Section thirty-four (34), and the entire front of Section thirty-five (35), in said town and range; and that, for such purpose it is necessary to maintain booms and sorting gaps in the river for storing, handling and sorting, not only the logs intended for the Company's mill, but also such other forest products as may become mingled therewith."

That the Company proceeds to state in the application that it has been using booms which were constructed under a permit granted to the Minnesota and Ontario Power Company, but that the booms have become inadequate and require reconstruction, and the Company, therefore, requests the approval of the plan of the booms submitted with the application, and authority to construct and reconstruct in accordance with the said plan;

That the Town of Fort Frances has filed an objection to the granting of the booming rights as set forth in the Company's application, and the plan accompanying the same, on the following grounds;

1.—"That the proposed boom would seriously encroach upon the rights of navigation as at present enjoyed by citizens of Canada and the United States.

The Rainy River is an important highway, and is the only means of communication of the City of International Falls and the Town of Fort Frances with Rainy Lake and its tributary waters to the north and east. The Town of Fort Frances is the business centre for a number of sawmills situate on islands and points in Rainy Lake. The Rainy River is used very extensively for the passage of timber, railway ties and pulpwood, and it is therefore necessary that a wide channel

should be maintained in the centre of the stream. The corporation suggests that this channel should be at least 400 feet in width extending for 200 feet on each side of the international boundary.

The Corporation also desires to draw the attention of the Government to the fact that the Municipal boundary of the Town coincides with the international boundary in the center of the Rainy River opposite the whole of the space proposed to be occupied by the International Lumber Company's boom. The Corporation has therefore a duty cast upon it to preserve the rights of navigation of the said river at this point as part of its municipal territory and also the duty of policing and regulating the use and enjoyment of such rights on this portion of the said river.

The Corporation further submits that the Citizens of Canada have a right to the free navigation of the whole of the navigable portion of the said river, and that the enclosure of any portion thereof or the exclusive use or occupation of any considerable part of such an important navigable stream by any person, firm or corporation for storage or any private purpose is a violation of the public rights that could only be justified by public necessity. No advantage will accrue to Canada or to the Town of Fort Frances from the grant of the proposed booming rights, and only the private interests of the applicant will be served.

2.—That the location of the proposed boom for a considerable portion of its length is within about ten feet of the international boundary, and therefore the navigable channel of the river would be practically all on the Canadian side of the boundary line. The resultant greater proximity of the water traffic to the Canadian shore would greatly increase the wave action thereon caused by motor and other boats and

great erosion to the banks would ensue owing to the high water maintained by the power dam, the more so as these banks are lower than the opposite ones on the Minnesota side.

The Corporation submits that as a fact the applicants have already without permission occupied the booming ground for the use of which they now seek Government approval, so that traffic at this point has hereby been forced chiefly into Canadian waters and as a consequence of this and of the high water level caused by the erection of the dam by the Minnesota and Ontario Power Company the banks of the river opposite said boom in the said Town have already been eroded and destroyed for a width of from 40 to 65 feet. That increased damage would follow the proposed grant is therefore not merely a presumption, but has already been demonstrated.

3.—That the rights and interests of the citizens of Fort Frances will be seriously prejudiced by encroaching upon the channel of the river as is proposed. It is only fair to assume that industries will be established on the Canadian side of the river opposite the proposed boom, in which case additional wharfage and boomage rights would be required. Great inconvenience would be caused and the industrial development of the Town would be hampered by the difficulty in providing such accommodation if the river channel were narrowed as proposed. The fact is that a large boom is already in existence on the Canadian side opposite in part to the proposed booming ground of the applicants and the occupation by the applicants of the space which they now ask permission to use has caused great congestion in traffic at this point. The boom of the Canadian Company is well within the limit herein suggested, and it is manifestly unfair to grant a privilege on one side of the river to such

an extent as to make it impossible to grant a similar privilege on the other side, unless the citizens on both sides are equally benefitted by the first grant.

The Corporation does not, however, object to the construction of a boom at a distance of not less than 200 feet southerly from the international boundary."

The Minister observes that the District Engineer of the Department of Public Works, to whom the matter was referred, has presented a report, a copy* of which is attached hereto, which is to the following effect:

1.—That the boom has already been constructed and is a distinct obstruction in the river, and that the plan accompanying the application does not correctly show its location, nor its relative position with regard to the international boundary.

2.—The proper location of the boom is indicated on the plan attached hereto which has been prepared by the District Engineer, and the international boundary is marked thereon in accordance with information obtained from the International Boundary Commission.

3.—The boom crosses the international boundary at three points and runs along it at other points. The boom as built confines for its own use about one-half of the river—that part south of the international boundary—for about 6,800' of its length, or one and one-quarter miles, opposite the Town of Fort Frances.

4.—The line of deepest water lies within the boom on the Minnesota side for some 2,000 feet. Navigation is not materially affected at the present time, although the distance between the boom and the boom belonging to the Shelvin-Clarke Company on the Canadian side is but 175' at one point and 200' at another point.

5.—Between the upper end of the boom and the Minnesota shore the river has been filled with logs

from the bottom to above the surface for storage purposes during different times, it being the custom to bring the logs by rail to this point and discharge them into the river down which they gradually find their way to the International Lumber Company's mill below. The blockade, if it may be so called, has covered an area 2,000' long by 500' wide and reduced the area of flow section by about 45%. Any effect this may have on the surface profile or on currents and their action north of the boundary has not been observed, but it may be stated that with a high water condition and the south half of the river dammed opposite the Shelvin-Clarke Company's mills, the Canadian shore below must suffer from undue scour.

The Minister further states that the Chief Engineer of the Department of Public Works has recommended that the Company's application be not approved.

The Minister, under the circumstances, recommends that a Statement in Response on behalf of the Government of Canada be filed with the International Joint Commission, opposing on the grounds already recited, the application of the International Lumber Company for booming rights in the Rainy River, at International Falls, Minnesota, opposite the Town of Fort Frances, Ontario, as set forth in the said application and on the plan accompanying the same.

The Committee concur in the foregoing recommendation and submit the same for approval.

(Sgd.) R. BOUDREAU,
Clerk of the Privy Council.

DEPARTMENT OF PUBLIC WORKS, CANADA.

OTTAWA, October 27, 1916.

E. D. LAFLEUR, Esq.,
Chief Engineer, D.P.W.,
Ottawa, Ont.

DEAR SIR:—

In reply to your letter of instructions of September 29th last, with regard to application of the "International Lumber Company" for approval of plans for a boom in the Rainy River at International Falls, I beg to submit the following report with plan.

The accompanying plan is the result of surveys made by the Department in 1914, and shows the location of the boom in question and the location of the International Boundary as obtained from the International Boundary Commission.

The boom has already been constructed and prior to any application for approval made to this Department of which this office has any knowledge.

From the plan, it will be seen that the boom crosses the International Boundary at three places and runs along it at others.

The line of deepest water lies within the boom on the Minnesota side for some 2,000 feet.

Navigation is not materially affected at the present time although the distance between the boom in question and the boom of the Shelvin-Clarke Company on the Canadian side is but 175 feet apart at one point and 200 feet apart for some distance at another.

Between the upper end of the boom and the Minnesota shore, the river has been filled with logs from bottom to above surface, for storage purposes, during different times; it being the custom to rail the logs to this point and discharge them into the river down

which they gradually find their way to the International Lumber Company's mill below.

The blockade, if it may be so called, has covered an area of 2,000 feet long by 500 feet wide and reduced the area of flow section by about 45%.

Any effect this may have on the surface profile, or on currents and their action, north of the boundary, have not been observed, but it may be stated that, with a high water condition and the south half of the river dammed opposite the Shelvin-Clarke Company's mills, the Canadian shore below must suffer from undue scour.

The boom as built confines for its own use about one-half of the river—that part south of the International Boundary—for about 6,800 feet of its length, or $1\frac{1}{4}$ miles, opposite the town of Fort Frances, Ont.

The boom is constructed of pile clusters with the boom timbers strung between and should be considered as a permanent structure.

That the boom, or parts of it, was constructed before approval of plans by Order-in-Council and also that its position and operation forms a distinct obstruction in the river appears to be in direct contravention to Chapter 115, R.S.C.

The blue print accompanying the application, being the one sent to the Secretary of the Department by the Secretary of the International Joint Commission under date of September 26th last, is not correct with regard to the position of the boom as it exists, nor in its relative position with regard to the International Boundary.

Respectfully,

Your obedient servant,

(Sgd.) S. J. CHAPLEAU,

District Engineer.



